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10/631,181

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EXAMINER

HENRY, RODNEY M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/631,181	Applicant(s) KOSER ET AL.	
	Examiner RODNEY M. HENRY	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/31/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a non-final office action on the merits. Examiner acknowledges receipt of communications from the Applicant dated February 20th, 2009, where Claims 1, and 3 were amended. Claims 1-22 are currently pending and have been considered below.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 20th, 2009 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,577,861), in view of Ortiz et al. (US 2002/0042774).

Regarding claim 1

Ogasawara discloses a system for executing promotions comprising:

a point-of-sale computer at a checkout counter for processing purchase of items for processing a purchase of items presented to the checkout counter for scanning and identification by the point of sale computer (See col 5, lines 29-54, in which the telephone and the checkout terminal become linked, taking broadly to become “integrated/one component/one checkout terminal”, thereby resolving the argument that the telephone is not a point-of-sale computer. The Examiner further asserts that the checkout terminal becomes “personalized” for that particular customer at the time of checkout so that further promotions can be alerted to the customer, as indicated below);

a customer interface device at the checkout counter and in communication with the point-of-sale computer for alerting a customer to the existence of a promotion for an item scanned at the checkout counter by the point-of-sale computer and for transferring details of the promotion to the point-of-sale computer (See col 7, lines 10-24....transmit promotional information. The combination of the telephone and the checkout terminal meet this claim limitation).

a local promotional server wirelessly connected to the customer interface

device for sending the details of the promotion to the customer interface display device.

(See col 10, lines 58-61).

Ogasawara does not disclose the details of the promotion appear as barcode data to the point of sale computer.

However, Ortiz et al. discloses the details of the promotion appear as barcode data to the point of sale computer (see paragraph [0108] and FIG. 7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add promotion appearing as barcode data at the point of sale computer to the system of Ogasawara. One would have been motivated to have the customers make use of coupons that are transmitted to their handheld devices (which have barcode data).

Regarding claim 2

Ogasawara discloses a central promotional server for sending the details of the promotion to the local promotional server, wherein the local promotional server and the central promotional server are connected by a global network (See col 10, lines 58-61).

Regarding claim 3

Ogasawara discloses a method of delivering a promotion comprising the steps of:

collecting and storing information about a customer (see col 10, lines 22-24);

generating a promotion based upon the information about the customer (see col 10, lines 58-61);

determining that the customer is presenting items for identification and purchase at a checkout counter (see col 5, line 47);

wirelessly delivering details of the promotion to a customer interface device at the checkout counter (see col 10, lines 58-61, and col 5, line 47);

receiving item identification at the customer interface device for items presented at the checkout counter for purchase (see col 5, lines 42-52, and col 7, lines 10-23, which discloses the linking of the telephone to the terminal, and item identification (description and pricing));

displaying a message to the customer informing the customer that the customer is to receive the promotion (see col 7, lines 10-23);

executing the promotion by the point-of-sale computer (see col 6, line 39).

Ogasawara does not disclose sending the details of the promotion to a point-of-sale computer at the checkout counters, including sending the details as bar code data.

However, Ortiz et al. discloses sending the details of the promotion to a point-of-sale computer at the checkout counters, including sending the details as bar code data (see paragraph [0108] and FIG. 7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add promotion appearing as barcode data at the point of sale computer to the system of Ogasawara. One would have been motivated to have the customers make use of coupons that are transmitted to their handheld devices (which have barcode data).

Regarding claim 4

Ogasawara discloses a system for executing promotions comprising:

a point-of-sale computer at a checkout counter for processing purchase of items presented to the checkout counter for scanning and identification (See col 1, lines 65-67 and col 2, lines 1-6..known use of handheld terminal (computer) at the counter. A customer can well bring all of their items in a shopping cart and do the scanning at the check out counter);

a customer identification device at the checkout counter (see col 5, lines 44-47).

a customer interface device at the checkout counter including a display (see col 10, lines 50-52);

a local promotional server wirelessly connected to the customer interface device for sending the details of the promotion to the customer interface display device. (See col 10, lines 58-61);

wherein the customer interface device displays a message informing a customer that the customer is to receive the promotion for an item presented for purchase and transfers the details of the promotion to the point-of-sale computer for processing by the point-of-sale computer (see col 10, lines 49-52 and col10, lines 58-61).

Regarding claim 5

Ogasawara discloses the customer interface device further comprising a printer for printing the details of the promotion (see col 6, lines 35-36).

Regarding claims 6

Ogasawara discloses means for the local promotional server communicating with the customer interface device over a wireless local area network (See FIG. 1).

Regarding claim 7

Ogasawara discloses a central promotional server for sending the details of the promotion to the local promotional server, wherein the local promotional server and the central promotional server are connected by a global network (See FIG. 1).

Regarding claim 8

Ogasawara discloses the local promotional server stores identification information for loyalty program members, receives customer identification information from the customer identification device, and determines that the customer has earned the promotion. (see col 10, lines 22-26, and col10, lines 58-61).

Regarding claim 9

Ogasawara discloses the customer identification device includes a card reader. (see col 4, line 49).

Regarding claim 10

Ogasawara discloses the customer identification device includes a barcode reader (see col 4, lines 58-60).

Regarding claim 11

Ogasawara discloses the customer identification device includes a keyboard (See FIG 1, item 18 and 44).

Regarding claim 12

Ogasawara discloses the customer identification device is coupled to the point-of-sale terminal (see col 4, lines 56-58, and col 5 line 47 via wirelessly),
and wherein the point-of-sale terminal sends customer identification information to the customer interface device (see col 10, lines 29-32 via authorization).

Regarding claim 13

Ogasawara discloses the customer identification device is coupled to the customer interface device. (see col 10, lines 22-26 via wireless).

Regarding claims 14, 15

Ogasawara discloses the local promotional server stores first identification information for first loyalty program members, receives customer identification information from the customer identification device, attempts to verify that the customer is a member of a customer loyalty program by comparing received identification information to the first customer identification information (see col 10, lines 26-32).

Regarding claim 16

Ogasawara discloses the point-of-sale computer sends item identification information associated with the items to the customer interface device, wherein the customer interface device sends the item identification information to the local promotional server, wherein the local promotional server determines that the item identification information triggers a discount based upon the details of the promotion and sends discount parameters to the customer interface device, and wherein the

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customer interface device sends a discount transaction to the point-of-sale terminal.

(see col 10, lines 49-52).

Regarding claim 17

Ogasawara discloses the customer interface device sends the discount transaction to the point-of-sale terminal in bar code data format (see col 11, lines 34-42).

Regarding claim 18

Ogasawara discloses the customer interface device displays advertisements (see col 10, lines 58-61 via promotional information).

Regarding claim 20

Ogasawara discloses a customer interface device comprising:

- a processor (see FIG 2...item 38);
- a customer identification device (see FIG 6...item 51e...customer ID provided by phone circuitry);
- a display for displaying a message alerting a customer to a promotion earned by a customer (see FIG 2, item 42) ; and
- wireless local area network communication circuitry for communicating with a local promotional server (see FIG. 2);

wherein the processor receives customer identification information from the customer identification device (see FIG. 2),

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receives from a point of sale terminal purchase item information on an item presented for purchase at the point of sale terminal (see FIG. 2...via the bar code scanner, while at the POS and at other locations in the store),

sends the customer identification information and the purchased item information to the local promotional server over a wireless network

(see FIG. 2... 114, and 117),

receives discount parameters from the local promotional server over the wireless local area network (see col 7, lines 20-23...telephone receives promos),

displays a message to the customer informing the customer that the customer is to receive the promotion (see col 7, lines 20-23), and sends a discount transaction based upon the discount parameters to the point of sale terminal.

Regarding claim 22

Ogasawara discloses a method of delivering a promotion comprising the steps of:

collecting and storing information about a customer (see col 10, lines 22-24);

receiving customer identification information from a customer identification device (see FIG 6...item 51e...customer ID provided by phone circuitry);

receiving purchased item information from a point of sale terminal for an item presented to the point of sale terminal for identification (see col 2, lines 1-6..when the customer chooses to bring purchase items to the check out counter and scan them while at the counter);

sending the customer identification information and the purchased item information to a local promotional (server) over a wireless local area network (see FIG. 2, and col 7, lines 4-9);

determining a promotion based upon the information about the customer by the local promotional server (see col 7, lines 3-23...refers to personal catering to the customer (shopping, promotions, greetings, etc.));

wirelessly receiving discount parameters associated with the promotion from the local promotional server over the wireless local area network (see FIG. 2, and col 7, lines 20-23);

displaying a message to the customer informing the customer that the customer is to receive the promotion (see FIG. 2, and col 7, lines 20-23);

sending a discount transaction based upon the discount parameters to the point-of-sale terminal (see col 2, lines 1-6).

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (US 6,577,861), in view of Ortiz (US 2002/0042774), and further in view of Sloane (US 5,918,211).

Regarding claims 19

Ogasawara does not disclose that the customer interface device completes a sweepstakes registration process.

However, Sloane discloses the customer interface device completes a sweepstakes registration process (see col 5, line 47).

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to add sweepstakes to the system of Ogasawara. One would have been motivated to do this as a means of adding to the interest and involvement of shoppers standing in a checkout counter line.

Response to Arguments

6. Applicant's arguments have been considered for claims 1, 3, and 19 and they are found to be unpersuasive.

On page 7, regarding claim 1, the Applicant states that "a hand-held terminal carried by the purchaser does not become a point-of-sale computer just because it is brought into proximity with a checkout counter. It is still a purchaser's hand held terminal and not a point-of-sale computer."

However, Ogasawara discloses the telephone as a "point-of-sale" computer via col 5, lines 29-54, in which the telephone and the checkout terminal become linked, taking broadly to become "integrated/one component/one checkout terminal", thereby resolving the argument that the telephone is not a point-of-sale computer. The Examiner further asserts that the checkout terminal becomes "personalized" for that particular customer at the time of checkout so that further promotions can be alerted to the customer, as discussed in claim 3.

On page 9, regarding claim 3, the Applicant states that "receiving item identification information at the customer interface device for items presented at the checkout counter for purchase." is not disclosed by Ogasawara.

However Ogasawara discloses these elements via col 5, lines 42-52, and col 7, lines 10-23, which discloses the linking of the telephone to the terminal, and receiving

item identification information (description and pricing). It is reasonable based on this disclosure to see a customer getting pricing and item description information for an item while at the checkout counter on their telephone (the customer interface device).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Henry whose telephone number is 571-270-5102. The examiner can normally be reached on Monday through Thursday from 7:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6102.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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RMH

/Arthur Duran/

Primary Examiner, Art Unit 3622